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Banner & Witcoff 1001 G Street Suite 1100 Washington DC 20001

OFFICE OF PETITIONS

In re Application of Kossida et al.

Application No. 10/631,958

Filed: August 1, 2003

: DECISION GRANTING PETITION

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed on December 27, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the Notice of Allowance from 164 days to 305 days.

Applicants' petition to correct PTA is **GRANTED.** The Office will adjust the PTA at the time of the mailing of the notice of allowance to reflect THREE HUNDRED AND FIVE (305) days. The Office will provide a copy of the adjusted PTA determination with this decision.

Applicant argues that the Office calculated the 14 month rule under 37 CFR 1.702(a)(2) because the Office improperly used the filing of the application as December 19, 2003 rather than the date of August 1, 2003. Applicants assert that they filed a petition to correct the filing date to the correct date of August 1, 2003. Accordingly, applicant assert that the proper amount of PTA at the time of the mailing of the notice of allowance is three hundred and five days.¹

Applicant arguments as well as calculations are persuasive. The record reflects that the Office did grant applicants' petition to correct the filing date from December 19, 2003 to August 1, 2003. The Office failed to change the filing date in PALM to August 1, 2003 and accordingly the Office error led the miscalculation of the PTA. The Office was required to file an action under 35 U.S.C. 132 or 151 within 14 months of the date of August 1, 2003 not within fourteen months of December 19, 2003. Accordingly, three hundred and five (305) days is the correct amount of PTA at the time of the mailing of the notice of allowance.

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuance of the application will be reflected in the issue notification letter that is mailed to applicant approximately three weeks prior to issuance of the application.

The Office has assessed the \$200.00 fee. No additional fees are required in deciding this petition matter.

¹Applicants assert that the three hundred and five days is based upon the beginning date of October 2, 2004 and ending on August 2, 2005.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

Kery Friesr
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Copy of Adjusted Pair Calculation



PALM INTRANET

Day : Saturday Date: 4/1/2006 Time: 20:12:31

PTA Calculations for Application: 10/631958						
Application Filing Date: 12/19	0/2003	PTO Delay (PTO):	164			
Issue Date of Patent:		Three Years:	0			
Pre-Issue Petitions: 0		Applicant Delay (APPL):	0			
Post-Issue Petitions: 0		Total PTA (days):	305			
PTO Delay Adjustment: 141						

File Contents History						
Number	Date	Contents Description	PTO	APPL	START	
80	04/01/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	141			
73	09/27/2005	MAIL NOTICE OF ALLOWANCE				
72	09/27/2005	MAIL EXAMINER'S AMENDMENT				
71	09/19/2005	ISSUE REVISION COMPLETED				
70	09/19/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED				
69	09/19/2005	EXAMINER'S AMENDMENT COMMUNICATION				
68	09/15/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)				
67	09/19/2005	NOTICE OF ALLOWABILITY				
65	12/19/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED				
64	08/29/2005	DATE FORWARDED TO EXAMINER				
63	08/12/2005	RESPONSE TO ELECTION / RESTRICTION FILED				
62	08/02/2005	MAIL RESTRICTION REQUIREMENT	164		-1	
61	08/01/2005	REQUIREMENT FOR RESTRICTION / ELECTION				
60	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU				
59	11/08/2004	PETITION DECISION - GRANTED				
58	09/17/2004	PETITION ENTERED				
57	09/17/2004	WORKFLOW INCOMING PETITION IFW				
56	08/17/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE				
55	08/17/2004	CASE DOCKETED TO EXAMINER IN GAU				
54	03/22/2004	PRELIMINARY AMENDMENT				
53	12/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED				
		APPLICATION RETURN FROM OIPE				
51	06/21/2004	APPLICATION RETURN TO OIPE				

50	06/21/2004	APPLICATION RETURN FROM OIPE	1	
49		APPLICATION IS NOW COMPLETE		
48		DRAWING PRELIMINARY AMENDMENT		
47		PRE-EXAM OFFICE ACTION WITHDRAWN		
46	06/21/2004	APPLICATION RETURN TO OIPE		
45	06/21/2004	APPLICATION RETURN FROM OIPE		
44	06/21/2004	APPLICATION IS NOW COMPLETE		
43	06/21/2004	APPLICATION RETURN TO OIPE		
42	06/21/2004	APPLICATION RETURN FROM OIPE		
41	06/21/2004	APPLICATION IS NOW COMPLETE		
40	06/21/2004	APPLICATION RETURN TO OIPE		
39	06/21/2004	APPLICATION RETURN FROM OIPE		
38	06/21/2004	APPLICATION IS NOW COMPLETE		
37	06/21/2004	APPLICATION RETURN TO OIPE		
36	06/21/2004	APPLICATION RETURN FROM OIPE		
35	06/21/2004	APPLICATION IS NOW COMPLETE		
32	06/21/2004	PRE-EXAM OFFICE ACTION WITHDRAWN		
31	06/21/2004	APPLICATION RETURN TO OIPE		
30	06/16/2004	APPLICATION RETURN FROM OIPE		
29	06/17/2004	APPLICATION IS NOW COMPLETE		
28	06/16/2004	APPLICATION RETURN TO OIPE		
27	06/16/2004	APPLICATION DISPATCHED FROM OIPE	,	
26	06/16/2004	APPLICATION IS NOW COMPLETE		
25	03/22/2004	ADDITIONAL APPLICATION FILING FEES		
24	03/22/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC		
21	U <i>A') /) /</i> I /) / AAA	NOTICE MAILEDAPPLICATION INCOMPLETE FILING DATE ASSIGNED		
20	12/19/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		

Search Another: A	pplication#	Search
	P P	

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Back to PALM | ASSIGNMENT | OASIS | Home page